

State of California
BOARD OF EQUALIZATION

SALES AND USE TAX REGULATIONS

Regulation 1505. MORTICIANS.

Reference: Sections 6015, 6381, Revenue and Taxation Code.

(a) IN GENERAL.

(1) **MORTICIANS AS RETAILERS.** Morticians are retailers of caskets, boxes, vaults, and clothing. They also are retailers of any other tangible personal property furnished in connection with rendering their services if a separate charge is made for such property. Unless otherwise exempt, tax applies to the sales price of all tangible personal property sold by morticians.¹

(2) **MORTICIANS AS CONSUMERS.** Morticians are consumers of acknowledgment cards, memorial folders, registration books, embalming fluid, cosmetics, eye caps, morgue supplies, car stickers, and prayer books which are furnished by them in connection with services they render unless a separate charge is made for such property. Tax applies to the sales price to the mortician of all tangible personal property consumed by him.

(b) APPLICATION OF TAX TO SPECIFIC TYPES OF TRANSACTIONS.

(1) **SALES IN INTERSTATE OR FOREIGN COMMERCE.** The sale of a casket and other tangible personal property by a mortician, which he delivers or ships to an out-of-state point pursuant to the agreement of sale is regarded as a sale in interstate or foreign commerce and is exempt from the tax. The facts that the death of the deceased occurred in this state, that the contracting parties are residents of this state, and that services are held in this state prior to the shipment, are immaterial.

(2) **SALES TO THE UNITED STATES.** All or a portion of charges for funerals of veterans and other persons may be paid by the United States Veterans Administration or by the Social Security Administration. Effective August 1, 1973, the United States Veterans Administration will pay an interment allowance, up to \$150, in addition to the regular funeral and burial allowance for veterans. Morticians may take a deduction for sales to the United States Government when claims filed by them with federal agencies are paid directly to the morticians regardless of method of billing. If funeral charges are paid by another person, there is no tax exemption even though such person may receive reimbursement from a federal agency and even though the amount received as reimbursement is assigned or endorsed over to the mortician as a credit against those charges.

In computing the allowable exemption, the funeral allowance and the interment allowance must be treated separately.

(A) Funeral allowance payments received directly from a federal agency are to be prorated between funeral charges for sales of tangible personal property and charges for exempt services. None are to be allocated to accommodation cash advances. The only exception will be when a portion of a payment is clearly identified as applying to something for which a mortician has made a specific charge.

(B) Payments received directly from the United States Veterans Administration which are identified as interment allowances are to be prorated between sales of tangible personal property used in actual interment and charges or advances for services in connection with the interment. The only exception will be when a portion of the payment is clearly identified as applying to something pertaining to interment for which the mortician has made a specific charge.

(3) **EXAMPLES OF APPLICATION OF AMOUNTS RECEIVED BY MORTICIANS DIRECTLY FROM A FEDERAL AGENCY** (Examples are at 6 percent rate).

¹ On October 25, 1972, the Board adopted an amendment to the regulation by which the 50 percent standard service reporting procedure in effect until October 18, 1970, and the 45 percent standard service reporting procedure in effect thereafter, are no longer allowable.

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Mortician's invoice to client:

Charges	
Services	\$ 400.00
Casket	355.00
Vault	200.00
Suit	<u>45.00</u>
Subtotal	<u>\$1,000.00</u>
Accommodation Cash Advances	
Cemetery Space and Opening	\$ 50.00
Clergy	25.00
Music	<u>15.00</u>
Subtotal	<u>\$ 90.00</u>
Total	\$1,090.00
Sales Tax (6% of \$355, \$200 & \$45)	<u>36.00</u>
Total	<u><u>\$1,126.00</u></u>

Example 1. Funeral allowance only.

Cash received by the mortician directly from a federal agency as a funeral allowance, and not allocated by the United States Government to any specific portion of the above charges, was \$300. No interment allowance was received.

Since \$600 of the \$1,000 charged the client (exclude the cash advances) was for tangible personal property, 60% of the amount received from the federal agency (60% of \$300 equals \$180) is considered a sale of such property to the United States Government and is exempt from sales tax.

Computation of Tax:

Total Charges		\$1,090.00
Less: Accommodation Advances	\$ 90.00	
Exempt Services	400.00	
Sale to United States	<u>180.00</u>	<u>670.00</u>
Taxable Sale		\$ 420.00
Tax at 6%		<u>25.20</u>
Taxable Sale Including Tax		<u><u>\$ 445.20</u></u>

Example 2. Funeral allowance and interment allowance received by mortician.

Cash received by the mortician directly from a federal agency, and not allocated by the United States Government to any specific portion of the above charges, was \$300 as a funeral allowance and \$150 as an interment allowance.

Since the total charges by the mortician related to interment were \$250 (vault \$200 plus cemetery space and opening \$50), and the charge for tangible personal property related to interment was \$200 (vault), 80% of the amount received from the federal agency as an interment allowance (80% of \$150 equals \$120) is considered a sale of such property to the United States Government and is exempt from sales tax.

Since \$400 (casket \$355 and suit \$45) of the \$800 charged the client for the funeral (exclude the cash advances and the vault) was for tangible personal property, 50% of the amount received from the federal agency as a funeral allowance (50% of \$300 equals \$150) is considered a sale of such property to the United States Government and is exempt from sales tax.

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Computation of Tax:

Total Charges		\$1,090.00
Less: Accommodation Advances	\$ 90.00	
Exempt Services	400.00	
Sale to United States		
Government (\$120 plus \$150)	<u>270.00</u>	<u>760.00</u>
Taxable Sale		\$ 330.00
Tax at 6%		<u>19.80</u>
Taxable Sale Including Tax		<u>\$ 349.80</u>

(4) ACCOMMODATION CASH ADVANCES. Tax does not apply to accommodation cash advances for such items as cemetery charges, newspaper notices, railroad tickets, ministerial fees and flowers.

(5) TAX-PAID PURCHASES RESOLD. A mortician may claim a "tax-paid purchases resold" deduction if the mortician reimbursed the vendor for tax which the vendor is required to pay to the state or has paid use tax with respect to the property and has resold the property prior to making any use of it.

(c) **"PRE-NEED" AGREEMENTS.** Where a mortician, cemetery association or other person enters into an agreement with a customer to provide services upon the death of the customer, no sale occurs for sales and use tax purposes until the services are rendered.

An amount designated as "sales tax" in the agreement will be considered an estimate of tax which may become due when the services are rendered. No sales tax should be paid to the Board in connection with "pre-need" agreements until the services are rendered.

History: Effective August 1, 1933.

Adopted as of January 1, 1945, as a restatement of previous rulings.

Amended and renumbered September 16, 1970, effective October 18, 1970.

Amended October 25, 1972, effective November 30, 1972.

Amended May 1, 1974, effective July 21, 1974. Noted additional interment allowance from U.S. Veterans Administration and illustrated effect on computation of tax exempt sales to federal government.

Amended December 7, 1978, effective February 18, 1979. Subsection (b) (3) and (c) amended to delete language on excess tax reimbursement and subsection (b) (5) with regard to "tax-paid purchase resold" was reworded.

Amended April 9, 1980, effective June 19, 1980. In (b) (3), Examples 1 and 2, substituted "\$300" for "\$250", "\$180" for "\$150," and "\$150" for "\$125" and revised the computations accordingly.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.